Mr. E. Ikkanda Wariar.—Are they not making sufficient progress? Is the Government going to keep them for any length of time on probation? If they are useless, why not send them away?

Mr. Sheik Abdul Qadir Sahib Bahadur.—It is not yet time to decide that. When it is time, they will be sent away.

Mr. E. Ikkanda Wariar.—Has the Government any idea as to the period that will be required for giving them the necessary experience in prosecution work?

Mr. Sheik Abdul Qadir Sahib Bahadur. That depends upon the pupils. As in all other matters, gaining of experience, proving efficient, all depends upon the pupils who undergo the training.

Mr. E. Ikkanda Wariar.—Am I to understand that the Government have not been able to test their capacity after having them in the service for one year and 4 months?

Mr. Sheik Abdul Qadir Sahib Bahadur.—Government did not think he is fit to be confirmed, and so he was not confirmed.

Mr. E. Ikkanda Wariar.—May I know the probable time when he will be confirmed?

Mr. Sheik Abdul Qadir Sahib Bahadur.—It is not possible to say.

Re-election disputes in connection with the election of members to the Ernakulam Municipality.

195. Mr. A. B. Salem.—Will the Government be pleased to state:—

(a) whether one Sanjiva Rao had filed a civil suit against the Chairman of the Ernakulam Municipality and the Diwan of Cochin as O. S. 35/03 in the matter of his candidature for election as a member in Ward II of Ernakulam;

(b) whether the same Mr. Sanjiva Rao had filed a Civil Miscellaneous Appeal as No. 7/03 in the Chief Court of Cochin;

(c) will the Government be pleased to place on the table a copy of the order passed by the Chief Court in the Civil Miscellaneous Appeal No. 7/03;

(d) will the Government be pleased to inform whether any special authorisation has been made by which one Judge of the Chief Court disposes of a Civil Miscellaneous Appeal of the kind mentioned in the question;

(e) will the Government be pleased to inform whether in Civil Miscellaneous Appeal No. 7/03 written arguments had been filed by the Vakil appearing for the appellant;

LIBRARY ARCHIVES Kerala Legislative Assembly

(f) will the Government be pleased to inform whether an application for the return of documents in C. M. 7/03 was made by the Vakil;

(g) whether any order to return document was made by the Registrar of the Chief Court and whether the documents were returned; if not, why not?

Mr. A. K. Vengu Ayyar.—(a) Yes.

(b) Yes.

(c) A copy of the judgment is placed on the Council table.

(d) No.

(e) An unsigned and undated typewritten copy purporting to be the "notes of argument" is on record.

(f) Yes.

(g) No order has been passed. The reason is that the applicant has not appeared to take back the documents.

Mr. A. B. Salem.—Sir, the answer to sub-division (c) is 'copy of the judgment is placed on the table'. I hand you that judgment, Sir. I have got a certified copy of the judgment, Sir.

President.—Is there any difference? Do not they relate to the same matter?

Mr. A. B. Salem.—I hand you the certified copy of the judgment, Sir. You will see the same number in both.

President.—The judgment placed on the table is a later order. This is dated 29th Vrischigam 1103. The other is dated 27th Kanni 1103. Even though the number is the same, they bear different dates. So there were two orders on the same matter; one was on 27th Kanni 1103, the copy obtained by you, and the other is on 29th Vrischigam 1103. We have got two orders on one and the same matter. The later order must be taken to be the final order. Is it not so? They refer to the same matter. The later order must be the final order on the matter. We have produced the order which is the proper order in the case.

Mr. A. B. Salem.—But, Sir, I have received an order on C. M. Appeal No. 7 of 1103, and therefore, I do not want to get any other order.

President.—The Government did not know whether you have got a copy at all.

Mr. A. B. Salem.—I have got a certified copy of my own. My Civil Miscellaneous Appeal was for an injunction. According to the certified copy, that has been disposed of. So far for information. After I gave notice to the Government and the Municipality, I got the order on my Civil Miscellaneous Appeal that my appeal is disposed of. Therefore, I did not appear any further. You see in the second appeal that no batta is put in,

LIBRARY ARCHIVES Kerala Legislative Assembly

nobody appeared,and for default of non-appearance it is disposed of. My case having been disposed of, there was no necessity for me to appear. I was served with notice. It is right there. What is the interest that will be served, if I got the notice?

President.—Of course,from my knowledge of the working of the Chief Court, it will be that this first order was passed by a single Judge, Mr. P. Narayana Menon. He posted before a Bench of two Judges to refer the matter,and this was the order (later order) of the Judges to whom the case was referred, and when the matter came before the Division Bench, we find 'batta not deposited, respondent not present, and so the appeal is dismissed'.

Mr. K. Achyuta Menon.—The first order is for an *ad interim* injunction. The first order must be pending the appeal; it must be so. That is a temporary injunction pending an appeal.

Mr. A. B. Salem.—All right, let the Hon'ble Law Member answer.

Mr. K. Achyuta Menon.—I object to the orders of the Chief Court being questioned here, by saying I have got a question there, I have got a question here.

President.—You will see, looking into the matter, there are two orders on the same subject by the Chief Court. If the facts are explained, there will be nothing.

Mr. K. Achyuta Menon.—What is the use of explaining these things in the Council?

President.—He just draws our attention to it. Mr. Salem, I do not want to shut you out.

Mr. A. B. Salem.—May I know the Law Member's objection with regard to these questions? The matter is not *sub judice*. The matter is finished. It is capable of public criticism.

President.—Yes. What is it that you want, Mr. Salem?

Mr. A. B. Salem.—It is not for the purpose of fire-works that I gave notice of these questions. I have a purpose in view. It is not a case of aspersion on anybody. I will be most reluctant to say a single word against any constituted authority, particularly about the judicial tribunals. I have got a reason for tabling this question.

President.—Never mind. Please come to the point.

Mr. A. B. Salem.—There are two orders in the same appeal. My learned friend says I do not want to know what is the variance of the two judgments. I asked a judgment to be placed on the table in answer to the question. They have placed some other thing. I could get a copy of the later order in the same way

LIBRARY ARCHIVES Kerala Legislative Assembly

as the former. My point is what the variance is due to?

President.—I will give an explanation. The judgment you have got is passed in the case in which you asked for a temporary injunction pending disposal of the appeal. That is the order passed in this case. The judgment placed on the table is the judgment in the appeal itself.

Mr. K. Achyuta Menon.—Sir, no orders of the Chief Court should be discussed in this House.

Mr. A. B. Salem.—The judgment of a court of law is public property. We can criticise it.

President.—Yes. But you cannot criticise while the case is pending.

Mr. A. B. Salem.—Generally, I care not to do so.

Mr. K. Achyuta Menon.—The later order is on the application for an injunction on the same subject. That is the order on that petition. It will be clear from the order that that petition is the petition for injunction. There is no petition in Miscellaneous Appeal; it is the appeal memorandum. That is the order for the civil injunction.

Mr. A. B. Salem.—May I ask the Law Member to produce that Miscellaneous Petition, now that I have been confronted with the statement that this order is passed upon the petition placed before the court in appeal? May I ask the Law Member whether he can produce that petition?

President.—Not now.

Mr. K. Achyuta Menon.—Will the Hon'ble Member be pleased to say whether he has not put in a petition?

Mr. A. B. Salem.—I have not put in a petition. It is not for me to inform. I can only answer. You may question me. I have said that openly 'I have not put in a Miscellaneous Petition'.

Mr. K. Achyuta Menon.—There is a petition referred to here.

President.—Mr. Salem may be correct in saying that he has not put in a petition. He might have made an oral request.

Mr. A. B. Salem.—I have not made an oral request for a temporary order. I have merely put in an *affidavit*.

There was a previous order directing me to give notice to the other side.

Mr. K. Achyuta Menon.—In connection with the same appeal?

Mr. A. B. Salem.—In connection with the same petition. I shall give you a copy of the first order which I got.

President.—We are enquiring into the propriety of the order passed by the Chief Court. I do not know whether we

LIBRARY ARCHIVES Kerala Legislative Assembly

can discuss that here. These are all things outside our province. All that you are entitled to is to ask for an answer to the question. Further, the Chief Court is not represented here.

Mr. A. B. Salem.—It is represented here by the Law Member.

President.—On going through the judgment, I find that here also the Miscellaneous Petition number is not given.

Mr. A. B. Salem.—It may be an imaginary Miscellaneous number, which never existed. I should think no order can be passed with regard to this.

President.—Mr. Salem, you would have a temporary injunction pending the disposal of the appeal, but did not put in a petition for the temporary injunction. It would appear from this order that the prayer for temporary injunction in the Miscellaneous Appeal was taken for an appeal petition, instead of a separate petition. That is my opinion. It takes some time to understand these things.

Mr. A. B. Salem.—My appeal itself was from the refusal to a temporary injunction. I filed a suit for a permanent injunction in the Zilla Court. I asked in the suit for a permanent injunction, a temporary injunction pending the disposal of the suit. That the Zilla Court refused. Then I took the matter to the Chief Court. The Chief Court also refused. I went over to the Chief Court in an election matter, and asked for a temporary injunction pending the disposal of the original suit in the District Court. I have asked that question here. "(e) Will the Government be pleased to inform whether, in Civil Miscellaneous Appeal No. 7/03, written arguments had been filed by the Vakil appearing for the appellant?" Written arguments were also given.

Mr. A. K. Vengu Ayyar.—Please read further the answer to that question.

Mr. A. B. Salem.—The answer given is "An unsigned and undated typewritten copy purporting to be the 'notes of argument' is on record". So it will be seen that written notes were handed in. Then the order was passed after the written notes were there. I was ordered that I must give notice to the other side. I gave notice to the other side. I went over again and presented an *affidavit*, and even served notices both upon the Government and the Municipality. Both parties did not appear. The order was passed on the Civil Miscellaneous Appeal for a temporary injunction. And I find here that order on the appeal petition. How another appeal for a temporary injunction, can be made, I cannot understand.

Mr. George Chakkyamuri.—Is that a supplementary question, Sir?

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. A. B. Salem.—I am only explaining the mistake that has been committed in the matter.

Mr. K. Achyuta Menon.—In the Chief Court?

Mr. A. B. Salem.—No, no. Some mistake somewhere. It is not for me to say where the mistake is. You were not able to understand my question. Therefore, I was explaining. I had no intention of explaining it.

May I know, Sir, how the information in (g) is given?

Mr. A. K. Vengu Ayyar.—'No order has been passed'. The reason is that the applicant has not appeared to take back the documents. The latter part may be a little unhappily worded.

Mr. A. B Salem.—May I know from where the information for the first part was received?

Mr. A. K. Vengu Ayyar.—The information has been received from the Chief Court. Orders might have been passed since then.

President.—We rely on the information furnished by the Chief Court.

Mr. A. B. Salem.—Will the Government be pleased to place the original order asking for this return of the documents?

President.—Government is not in possession of the paper. It will be in the Chief Court.

Mr. A. B Salem.—I find some stirring in the official block.

Mr. A. K. Vengu Ayyar.—There is absolutely no stir here, Sir.

Mr. A. B. Salem.—May I know, Sir, whether the Government would be pleased to call for the original petition on which the order has been passed?

President.—Government will consider.

Chittur Co-operative Society.

196. Mr. A. Eachara Menon.—Will the Government be pleased to state regarding the Co-operative Society of Chittur;—

(1) when it was last inspected (a) by the Registrar (b) by the Inspector;

(2) what was the opinion of the Inspector regarding the transactions of the society;

(3) what was the action taken by the Registrar on the last report of the Inspector;

(4) what is the amount due to the society from its Secretary;

LIBRARY ARCHIVES Kerala Legislative Assembly